

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Steven Christopher Crain,

5 Petitioner

6 v.

7 Nevada Parole and Probation, et al.,

8 Respondents
9

2:18-cv-00382-JAD-CWH

Order Dismissing Case

[ECF No. 1]

10 Pro se petitioner Steven Crain petitions for a writ of habeas corpus under 28 U.S.C. §
11 2254, seeking relief from his conviction in Nevada state court for attempted lewdness with a
12 minor in Case No. 00C166673.¹ This is not Crain’s first attempt to challenge his
13 conviction—it’s his fourth.² His first two challenges were dismissed as untimely under 28
14 U.S.C. § 2244(d),³ and the third was dismissed as successive.⁴ The court referred the dismissed-
15 as-successive petition to the Ninth Circuit for consideration as an application to file a second or
16 successive petition, and the Ninth Circuit denied it.

17 “[D]ismissal of a section 2254 petition for failure to comply with the statute of limitations
18 renders subsequent petitions second or successive for purposes of . . . 28 U.S.C. § 2254(b).”⁵
19 Crain must first obtain authorization from the Court of Appeals before I can consider this
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22 ¹ ECF No. 1.

23 ² See *Crain v. Nevada Parole and Probation*, case no. 2:09-cv-1099-RLH-PAL; *Crain v. State of*
24 *Nevada*, case no. 2:11-cv-2014-ECR-VCF; *Crain v. Nevada Parole and Probation*, case no.
25 2:14-cv-1056-GMN-NJK.

26 ³ See ECF No. 5 in 2:09-cv-1099-RLH-PAL; ECF No. 2 in 2:11-cv-2014-ECR-VCF.

27 ⁴ See ECF No. 9 in 2:14-cv-1056-GMN-NJK.

28 ⁵ *McNabb v. Yates*, 576 F.3d 1028, 1030 (9th Cir. 2009).


1 petition.⁶ Because Crain has not yet obtained that authorization, I lack jurisdiction over his
2 petition.

3 I also note that although Crain alleges in ground 2 that Nevada parole and probation
4 officers—and counselors working with them—have violated his constitutional rights in various
5 ways, he does not appear to be asserting these as standalone claims. He cites to these alleged
6 violations as bases for overturning his conviction and seeks only habeas relief. Crain seems to be
7 seeking monetary damages for these claims in a separate civil action.⁷ In light of the relief
8 sought here compared to that other action, I do not construe this petition as anything more than a
9 petition for a writ of habeas corpus under 28 U.S.C. § 2254.

10 Accordingly, IT IS HEREBY ORDERED that Crain's petition [ECF No. 1] is
11 **DISMISSED** for lack of jurisdiction.

12 The **Clerk of Court** is directed to **ADD** Adam P. Laxalt, Attorney General for the State
13 of Nevada, as counsel for respondents. The **Clerk of Court** is also directed to **electronically**
14 **SERVE respondents with a copy of the petition and this order.** Respondents do not need to
15 respond. Finally, the **Clerk of Court** is directed to **CLOSE THIS CASE.**

16 DATED: March 6, 2018.

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18 U.S. District Judge Jennifer A. Dorsey
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26 _____
27 ⁶ 28 U.S.C. § 2244(b)(3).

28 ⁷ See ECF No. 5 in 2:16-cv-406-JAD-PAL.